

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD PAUL JOHNSON,

Plaintiff,

v.

KILOLO KIJAKAZI, ACTING  
COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

Case No. 1:23-cv-01047-HBK

ORDER GRANTING PARTIES'  
STIPULATED MOTION TO REMAND  
UNDER SENTENCE FOUR OF 42 U.S.C. §  
405(g), REVERSING FINAL DECISION AND  
REMANDING CASE<sup>1</sup>

(Doc. No. 12)

Pending before the Court is the parties' joint motion to remand filed August 30, 2023. (Doc. No. 12). Plaintiff Richard Paul Johnson and the Commissioner of Social Security agree that this case should be remanded for further administrative proceedings under sentence four of 42 U.S.C. § 405(g). (*Id.*).

The United States Supreme Court held that the Social Security Act permits remand in conjunction with a judgment either affirming, reversing, or modifying the Secretary's decision. *See Melkonyan v. Sullivan*, 501 U.S. 89, 97-98 (1991) (addressing issue of attorney's fees under

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<sup>1</sup> Both parties have consented to the jurisdiction of a magistrate judge in accordance with 28 U.S.C. §636(c)(1). (Doc. No. 11).

1 the Equal Access to Justice Act and calculating deadline using date of final judgment). The  
2 *Melkonyan* court recognized 42 U.S.C. § 405(g) contemplates only two types of remand –  
3 sentence four or sentence six. *Id.* at 98. A sentence four remand authorizes a court to enter “a  
4 judgment affirming, modifying, or reversing the decision of the Secretary, with or without  
5 resetting the cause for a rehearing.” *Id.* (other citations omitted).

6 The Court grants the parties’ motion to remand under sentence four and reverses the  
7 Commissioner’s final decision. As agreed upon by the parties, upon remand, the Commissioner  
8 will further develop the record as necessary, offer Plaintiff the opportunity for a new hearing, and  
9 issue a new decision.

10 Accordingly, it is **ORDERED**:

- 11 1. Pursuant to sentence four of 42 U.S.C. § 405(g), the Court grants the joint motion to  
12 remand (Doc. No. 12) and REVERSES the Commissioner’s decision. This case is  
13 REMANDED to the Commissioner of Social Security for further proceedings  
14 consistent with this Order.
- 15 2. A motion for attorney fees may be filed within thirty (30) days.
- 16 3. The Clerk shall enter judgment in favor of Plaintiff, terminate any deadlines, and close  
17 this case.

18  
19 Dated: August 30, 2023

  
HELENA M. BARCH-KUCHTA  
UNITED STATES MAGISTRATE JUDGE